
**Early Learning & Children's
Services Committee**

SSB 5321

Brief Description: Addressing child welfare.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Regala, Stevens, Schoesler, Clements and Rasmussen).

Brief Summary of Substitute Bill

- Establishes and amends definitions relating to screening, investigations, and findings of child abuse and neglect referrals.
- Specifies limits on the types of child abuse and neglect referrals the Department of Social and Health Services may investigate.
- Establishes timelines for the completion of investigations of child abuse and neglect referrals.
- Establishes timelines for the destruction of child abuse and neglect referrals and investigative records.
- Provides for penalties and attorney fees for persons harmed by unauthorized disclosure of records relating to child abuse and neglect.
- Requires the sharing of information with foster parents regarding high-risk behaviors of children placed in foster care.

Hearing Date: 3/22/07

Staff: Sydney Forrester (786-7120).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Children's Administration (CA) within the Department of Social and Health Services (DSHS) investigates allegations of child abuse or neglect. A report alleging child abuse or neglect is commonly called a *referral*. Referrals may involve allegations of abuse or neglect by a child's parent or other caregiver, or they may allege abuse or neglect in a state - licensed or state - operated facility.

Referrals Alleging Child Abuse or Neglect by Child's Parent/Caregiver

Upon receipt by CA's Child Protective Services (CPS) of a referral, CPS must make a determination whether to investigate the allegation. This is commonly called the intake or screening process.

Referrals to CPS may be screened-out and not investigated if any of the following apply:

- (1) The child cannot be located;
- (2) The alleged perpetrator is not the parent/caregiver of the child;
- (3) The allegation does not meet the legal definition of abuse/neglect; or
- (4) There are no alleged risk factors that place the child in danger of serious and immediate harm.

Screened-out referrals are labeled as *information-only* referrals, and the CA is required to maintain a log of screened-out referrals. Referrals not screened-out are investigated.

After an initial investigation by CPS, referrals presenting low-to-moderate safety risks may be addressed through an alternative response. In these cases, CPS makes no formal finding regarding the allegation and instead the family is referred to a community-based provider for voluntary participation in services.

Other referrals indicating moderate-to-high safety risks are investigated further. Based on the information obtained during the investigation, CPS makes one of three findings regarding the allegation at the close of the investigation as follows:

- (1) *Unfounded*: Based on the available information, more likely than not, the alleged abuse or neglect did not occur;
- (2) *Founded*: Based on the available information, more likely than not, the alleged abuse or neglect did occur; or
- (3) *Inconclusive*: The available evidence is insufficient to make a determination that more likely than not, child abuse or neglect did not occur or did occur.

Only the term "unfounded" currently is established in statute. The terms "founded" and "inconclusive" are established in DSHS rules.

Referrals Alleging Child Abuse or Neglect in Licensed Care Facilities

Referrals alleging child abuse or neglect by state-licensed or state-operated facilities are sent to the DSHS Division of Licensed Resources (DLR) for screening and investigation. These referrals may allege inadequate supervision of a child or failure to protect a child from abuse. In addition to determining whether an incident occurred, DLR investigators must address specific questions before making a finding regarding the allegation, including:

- (1) If the incident occurred, could the licensed, certified, or state operated facility have prevented or foreseen the occurrence of the incident?; and
- (2) If the agency/licensee failed to prevent or foresee the incident, does the failure constitute neglect as defined in law or rule?

At the close of its investigation, DLR makes a CPS finding regarding the allegation as either unfounded, founded, or inconclusive.

Records Relating to Referrals and Investigations of Child Abuse and Neglect

The CA is required to purge records relating to unfounded allegations of child abuse or neglect after six years if no subsequent referral has been received. Reports relating to unfounded allegations may not be disclosed or used in employment, licensing, or adoption-related processes.

Records relating to referrals of founded or inconclusive allegations of child abuse and neglect may be considered by the DSHS and by the Department of Early Learning for the agencies' respective functions relating to child care, foster care, residential services, and adoption.

House Bill 3115 Work Group

In 2006, 2SHB 3115 was enacted, directing the CA to review its policies and make recommendations for improvements to current practices including the terminology related to referrals and investigative findings; time lines for investigation of referrals; destruction of records related to those investigations; and disclosure to foster parents of known behavioral patterns of children placed in their care. Two CA-convened workgroups met during the 2006 interim.

The workgroup addressing issues relating to disclosure to foster parents developed definitions for behavioral terms and a policy for sharing of information with foster parents. That policy is scheduled for implementation this spring.

The workgroup addressing issues relating to screening, investigation, findings, and records of child abuse and neglect referrals recommended some revisions related to screening and investigation, and proposed implementation of a discretionary review process for inconclusive findings of child abuse or neglect. This workgroup did not recommend changes to the three-tier findings model, but did endorse a review of the findings system by the CA practice model team.

Summary of Bill:

Definitions for Investigative Findings

Definitions are established for the following terms:

- (1) *Founded*: Based on available evidence, CPS has determined that more likely than not the abuse or neglect did occur;
- (2) *Inconclusive*: Based on available evidence a decision cannot be made that more likely than not, child abuse or neglect did or did not occur; and
- (3) *Screened-out*: CPS has determined that the referral does not rise to the level of a credible report of abuse or neglect.

The definition for unfounded is amended to include those findings for which there is not sufficient evidence to make a determination that child abuse or neglect did not or did occur. Following the effective date of the bill, the CA may not make a finding of inconclusive following an investigation of child abuse or neglect.

Referrals and Investigations

Upon receipt of a referral alleging child abuse or neglect CPS must make reasonable efforts to learn the name, address, and telephone number of the person making the referral and shall provide assurances of confidentiality. If CPS is unable to obtain the information, the only cases which may be investigated are those in which:

- (1) CPS believes there is serious threat of substantial harm to the child;
- (2) The report indicates conduct involving a criminal offense in which the child is the victim; or
- (3) CPS has a prior founded allegation of abuse or neglect regarding a member of the household within the three years preceding the referral.

Records Destruction and Retention

The CA is directed to destroy all of its records relating to child abuse and neglect referrals on the following schedule:

- (1) Screened-out referrals: Within three years from receipt of the report; and
- (2) Unfounded and inconclusive referrals: Within six years of completion of the investigation, unless a prior or subsequent founded referral has been received.

The CA is authorized to retain records relating to founded allegations of child abuse and neglect as determined by agency rule. The CA may not disclose screened-out referrals and inconclusive findings to child-placing agencies, adoption agencies, or other DSHS-licensed providers.

If the CA fails to comply with its records destruction duties or fails to limit disclosure of unfounded or screened-out referrals or inconclusive findings, the person who is the subject of such records may bring an action for enforcement or injunctive relief in superior court. The court may award a penalty of up to one thousand dollars and reasonable attorney fees and court costs to an individual harmed by unauthorized disclosure of such information

The CA must conduct an investigation of a referral alleging child abuse or neglect within 90 days. At the completion of an investigation, DSHS must make a finding that the allegation is either founded or unfounded.

Sharing of Information with Foster Parents

The CA must disclose to foster parents information about children in their care who have any of the following behaviors for which definitions are established in statute, high-risk; physically aggressive; physically assaultive; sexually reactive:

The CA also must provide foster parents with information relating to whether the child: (1) has been diagnosed with fetal alcohol syndrome or effect or a mental health disorder; or (2) has been a victim of or witness to substantial violence, assault, or abuse in the recent past.

The CA can not enter a finding that a foster parent has abused or neglected a child, nor can the foster parent be denied a license based on allegations of abuse or neglect if: (1) the child was not within the reasonable control of the foster parent at the time of the incident; or (2) if prior known conduct of the child was not disclosed to the foster parent; and (3) the allegations arise from the child's conduct that is substantially similar to prior conduct of the child.

Appropriation: None.

Fiscal Note: Requested on March 21, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 1, creating definitions; section 2, relating limiting the cases the CA may investigate; and section 3, relating to records destruction and retention, take effect on October 1, 2008.